



Office of the Secretary
Federal Trade Commission
Room H-135 (Annex L)
600 Pennsylvania Avenue, NW
Washington, DC 20580

July 9, 2007

Re: **16 CFR Part 24 – Comment – Guides for Select Leather and Imitation Leather Products, Matter Number P078008**

I. INTRODUCTION

These comments are submitted on behalf of the Footwear Distributors and Retailers of America (FDRA) in response to the request by the Federal Trade Commission for comments regarding the “Guides for Select Leather and Imitation Leather Products”, 16 CFR Part 24.

FDRA urges the Commission to abandon the Guides as they apply to footwear. As is explained herein, the basic premise on which the Guides are based – a consumer preference for leather footwear – may have been well founded in 1962 when the Guides were first adopted, but is no longer the case in the current footwear market.

FDRA is an association of 112 retailers, distributors, importers, and manufacturers of footwear, which account for approximately three quarters of footwear sales in the U.S.

II. NEW CONSUMER BUYING PREFERENCES

Current consumer buying habits, preferences and expectations bear little resemblance to those of the 1950’s on which the Guides are premised.

When the Guides were formulated, shoes were typically all leather – upper, sole, heel and lining. The dress up environment was dominated by smooth, shiny leather shoes for men, women and children. Sport shoes were the exclusive domain of rubber sole, canvas upper “sneakers” (Do you remember P.F. Flyers, “Chuck Taylor” All Stars, etc.?). In such an environment, it is possible that consumers expected that all parts of non-sports shoe be leather.

The footwear market is different today:

- Leather upper footwear represented only 37.9% of the U.S. footwear market in 2006; the balance had uppers of plastic, fabric, or rubber (see attached).
- Dress footwear accounted for only 6% of U.S. footwear sales according to NPD, the respected consumer market research and footwear market segmentation company.
- NPD also reports that performance sports footwear accounted for 26% of the market, while casual footwear accounted for another 28% of the market.

In the current footwear environment, comfort and performance are the factors that drive styling, material selection and consumer preference. Lateral support features, synthetic sole and inter-sole materials and other hi-tech innovations define the products that consumers want. The type of leather or other material used in shoes is that which is best suited to the comfort, performance and price/quality ratio consumers want. Consumer choice is informed by functionality and value not whether the material is leather or synthetic.

Today’s styles are typically made from a variety of materials fitted together with leather and man-made overlays, interspersed with light, “breathable” textile materials, combined to create the comfort, fit and “breathability” preferred by consumers. The function of the shoe, as opposed to a tailored appearance, dictates construction and permits both the use of overlays (often creating a patch-like surface) and the perforation of hard surfaces (which permits the shoe, regardless of material to “breathe” easily).

There are also new consumer expectations and preferences in the low price category, where products often retail under \$15 and are typically made entirely of synthetic materials. These items have gained wide acceptance because they have many of the comfort and performance characteristics of leather footwear at a fraction of the price. Because of the low price, consumers have no expectation that these items are made of leather. They buy them because they offer the characteristics and value that they want.

Indeed, enormous strides have been made in the development of synthetic materials. These materials have replaced leather in many facets of footwear construction. These materials are often preferred because they perform better in the finished product and are easier to use in the manufacturing process. Certainly, synthetic materials are preferred in athletic-type footwear. These materials have been developed to be light in weight and provide strength and durability superior to that of leather. Indeed, these materials are sometimes more expensive than leather, even top grain leather. The Air Jordan, for example, is and has always been made entirely of hi-tech synthetic materials.

Clearly, it is erroneous to say in the current environment that there is a consumer preference for leather shoes; or an expectation that the shoe is made of leather.

III. CONCLUSION

FDRA urges the Commission to abandon the Guides as they apply to footwear. They are not needed to prevent deception or to provide guidance to the industry.

As noted, the Guides are based on a number of assumptions about consumer expectations for which there is no evidence in 2007 and for which there may not have been evidence when the Guides were first issued in 1962. As they relate to footwear, the Guides are based on the assumption that consumers believe all parts of shoes with an "appearance" of leather, are made of leather, regardless of what the distributor says or does not say in labeling or advertising about the leather content.

"Appearance" is not defined, but the Guides' emphasis on the assumed preference for leather is so great that the effect is that any shoe which does not disclose its contents "appears" to be leather. In essence, the Guides convert silence about shoe content into a claim of leather content and then require disclosure to cure the "misrepresentation" created only by the Guides themselves. The Commission should reconsider this flawed approach.

In 2007 consumers simply do not assume that all footwear is made out of leather, nor do they necessarily know or care what particular materials are used in their shoes. They care about performance and value. Accordingly, the Commission should exclude footwear from the Guides.

If, however, the Guides are to be revised and issued in some form applicable to footwear, the Commission should modify them as follows:

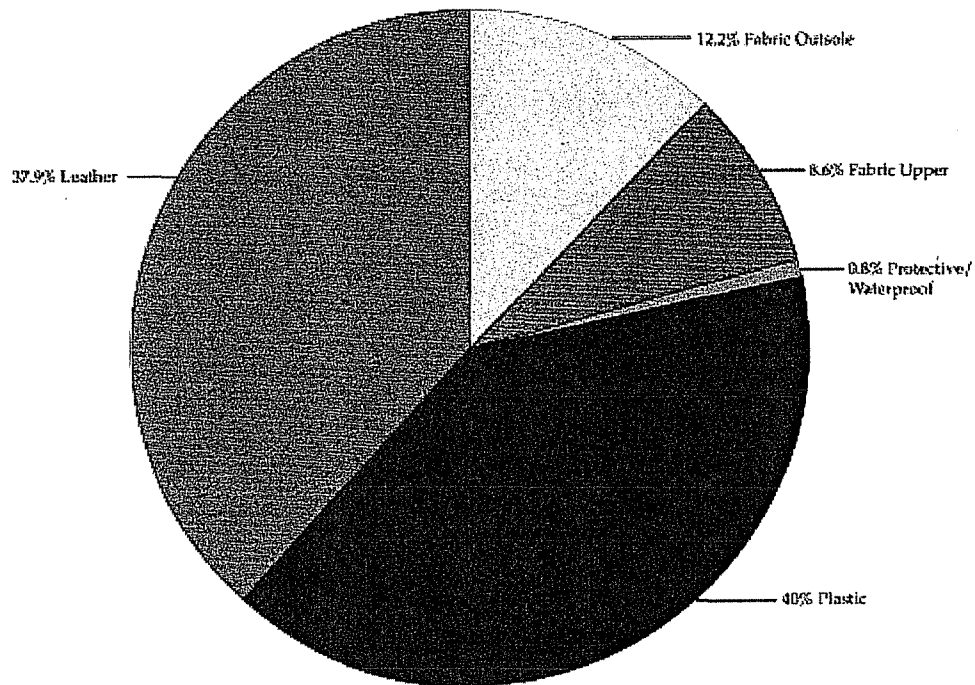
- The Commission should make it clear that the look or mere appearance of the shoe does not constitute a representation that the shoe is leather, either in whole or in part.
- The Guides should apply only to misrepresentations of leather content.

For the forgoing reasons, FDRA urges the Commission to exclude footwear from the coverage under the Guides, or to modify any provisions applicable to footwear as requested wherein.

Respectfully submitted,

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President, FDRA

**U.S. Footwear Market
2006 Market Share of Major Duty Categories by Volume**



Plastic:	977.9 million pairs; 6% duty
Leather:	916.3 million pairs; 6.5%-10.0% duty
Fabric Outsole:	295.8 million pairs; 7.5%-12.5% duty
Fabric Upper (foxing, etc.):	205.9 million pairs; 20%-67% duty
Protective/Waterproof:	19.9 million pairs; 37.5% duty

Total: 2,418.8 million pairs; 11% average duty